

REMARKS

In view of the following remarks, the Examiner is requested to allow Claims 1-33.

The Applicants gratefully acknowledge the Examiner's indication that Claims 1-27 are allowed.

Claim 28 has been amended to include the elements of "a supply of image nanoparticles", and "a supply of target nanoparticles." Support for the amendment can be found, for example, at page 12, paragraph [0058]; and page 13, paragraph [0059]. No new matter has been added.

New Claims 31-33 have been added. Support for these new claims can be found throughout the specification and claims as originally filed at, for example, page 5, paragraphs [0023] and [0024]; page 11, paragraph [0053]; page 12, paragraph [0057]; and page 14, paragraph [0063]. No new matter has been added.

Claim 29 has been amended to correct minor informalities. No new matter has been added.

As no new matter has been added by way of the above amendments, entry thereof by the Examiner is respectfully requested.

Claim Rejections – 35 U.S.C. § 102

Claims 28-30 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Cai et al. ("Electrochemical detection of DNA hybridization based on silver-enhanced gold nanoparticle label", *Analytica Acta*, 469 (2002), 165-172).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

As indicated above, Claim 28 has been amended to include the elements of “a supply of image nanoparticles”, and “a supply of target nanoparticles.”

In contrast, Cai only discloses that, “Gold nanoparticle-labeled known sequence ssDNA probes were synthesized by derivatizing 5 ml of gold nanoparticle solution (~1.0 nmol l⁻¹) with 2.0 OD of 5'-mercaptohexyl-capped oligonucleotides (X2) (final oligonucleotide concentration 1.27×10^{-6} mol l⁻¹).” Cai, pg. 167, section 2.3.2. In addition, Cai discloses that, “After hybridization, the gold nanoparticle/dsDNA electrode was incubated and [shaken] (sic) in the silver enhancer solution”. Cai, pg. 168, section 2.3.4. Moreover, Cai discloses that the silver enhancer solution is “Ag⁺ hydroquinone, pH 3.8”. Cai, pg. 167, Fig. 1. Thus, Cai only discloses the use of gold nanoparticles and a solution of silver ions. As such, nowhere does Cai disclose the elements of “a supply of image nanoparticles” and “a supply of target nanoparticles,” as claimed by the Applicants.

Therefore, the Applicants contend that Cai does not anticipate the rejected claims. In view of the above, the Applicants respectfully request that the 35 U.S.C. § 102(b) rejection of Claims 28-30 be withdrawn.

New Claims

New Claims 31-33 have been added. The Applicants respectfully submit that new Claims 31-33 are allowable for at least the reasons discussed above.

CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Bret Field at (650) 327-3400.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

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